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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SEVEN

In re O.M., a Person Coming Under the
Juvenile Court Law.

B232714
(Los Angeles County
Super. Ct. No. JJ18331)

THE PEOPLE,

Plaintiff and Respondent,

v.

O.M.,

Defendant and Appellant.

APPEAL from an order of the Superior Court of Los Angeles County,
Tamara E. Hall, Juvenile Court Referee. Affirmed.

Holly Jackson, under appointment by the Court of Appeal, for Defendant
and Appellant.

Kamala D. Harris, Attorney General, Dane R. Gillette, Chief Assistant
Attorney General, Lance E. Winters, Senior Assistant Attorney General, Jaime L. Fuster
and Nima Razfar, Deputy Attorneys General, for Plaintiff and Respondent.

INTRODUCTION

A petition was filed by the Los Angeles County District Attorney pursuant to Welfare and Institutions Code section 602 alleging that minor appellant had committed residential burglary in violation of Penal Code section 459. Following adjudication the court sustained the petition and declared the minor appellant a ward of the court and placed him on home probation. The sole contention raised by minor appellant is that there is a lack of substantial evidence to support his burglary conviction.

For the reasons hereafter stated, we affirm the juvenile court's order sustaining the petition.

FACTUAL AND PROCEDURAL SYNOPSIS

The petition.

On September 30, 2010, a petition was filed by the Los Angeles County District Attorney alleging that minor appellant had committed residential burglary in violation of Penal Code section 459¹ by entering an inhabited dwelling house and trailer coach occupied by one Laura B. with the intent to commit larceny and any felony.

Following adjudication of the matter, the trial court sustained the petition finding "true" the allegations contained therein and placed the minor appellant on home probation with conditions of probation stated. As previously indicated, the minor appellant questions and asserts there is a lack of substantial evidence to support the finding of "true" by the trial court.

Substantial evidence standard of review.

There does not appear to be a dispute concerning the standard of review on appeal. Minor/appellant merely contends the evidentiary facts do not support the "true" findings of the court. With minor's sole contention in mind, we review the standard governing our review.

¹ Unless otherwise noted all future statutory references are to the Penal Code.

In assessing the evidence for compliance with sufficiency requirements, the appellate court reviews the entire record in the light most favorable to the judgment of the trial court which requires a determination of whether it discloses evidence that is reasonable, credible and of solid value so that a reasonable trier of fact could find the defendant guilty beyond a reasonable doubt, as required by our high court in *People v. Bolin* (1998) 18 Cal.4th 297, 331. Only on a clear showing that under no hypothesis whatever is there substantial evidence to support the decision will the conviction be reversed, as held in *People v. Martinez* (2008) 158 Cal.App.4th 1324, 1329. A reviewing court must resolve all conflicts in favor of the judgment of the trial court and indulge all reasonable inferences from the evidence in support of the judgment. This standard applies to convictions resting primarily on circumstantial evidence as stated in *People v. Villalobos* (2006) 145 Cal.App.4th 310, 321. The standard also applies to juvenile court delinquency proceedings as stated in the decision of *In re Babkak S.* (1993) 18 Cal.App.4th 1077, 1088. Further, the testimony of a single witness is sufficient to support a conviction unless physically impossible or inherently improbable, as stated by our high court in *People v. Young* (2005) 34 Cal.4th 1149, 1181. We are mindful that a reviewing court does not reweigh the evidence or resolve conflicts in the evidence or reevaluate the credibility of witnesses all as held by our high court in *People v. Ochoa* (1993) 6 Cal.4th 1199, 1206 and *People v. Jones* (1990) 51 Cal.3d 294, 314.

With the aforementioned principles of review in mind we now examine the record to determine if substantial evidence supports the order of the juvenile court.

Prosecution evidence.

Fourteen-year-old Marlene M. lived with her mother Laura B. in an apartment in Los Angeles County. Some of the people she hung out with included appellant, appellant's girlfriend Krystal F., and Krystal's sister Christina F. S.B. and appellant had been friends for two years. S.B. also hung out with Christina F.

On September 19, 2009, at around 6:00 p.m., Marlene M.'s mother, Laura B., left the apartment for a short time. Laura B. made sure she locked her home before leaving.

No one else was home. When Laura B. returned home around 7:30 p.m., she heard voices at her front door. Laura B. saw Christina F., S.B., and another person described as Tyler hanging out. Soon after, she found out that her home had been broken into and items were missing. Her computer was missing along with her iPods and some pieces of gold jewelry from Marlene M.'s room. Marlene M. was not home that day from noon until 11 p.m. The metal security door in front of the front door had been damaged as part of it was bent and had a gap.

About a week prior to the burglary, Marlene M. remembered she was just hanging out with appellant and his girlfriend Krystal F. Marlene M. wanted to play on a scooter and did not have pockets to hold her keys. She gave the keys to appellant to hold for her. After she was finished playing on the scooter, she asked for her keys back but appellant claimed he had lost them because he had a hole in his pocket. Appellant tried to look around for them but did not find them. Marlene M. never got her keys back.

Marlene M. also recalled a time prior to the burglary, when appellant, Krystal F., Christina F. and others, were over at her house. She remembered showing the girls some earrings she had in her room.

Detective Jose Larios of the Los Angeles County Sheriff's Department investigated the burglary. He interviewed S.B., who was one of appellant's friends and who hung out with Christina F. S.B. told him that he was standing outside with Christina F. when he saw two Hispanic males running from Marlene M.'s apartment. S.B. started to cry as he told the detective that one of the individuals was appellant, who was carrying a computer in his hands. Appellant's sister picked him up and appellant had the computer with him at that time.²

² The prosecution called S.B. as an adverse witness. S.B. remembered speaking with Detective Larios, but denied stating appellant was the person he saw running out of the apartment with the computer.

B. Defense evidence.

Three witnesses testified on behalf of appellant. Ashley S., who is Krystal F.'s sister, stated she lived in the apartment building behind Marlene M. She witnessed the two suspects running out of the apartment of Marlene M. and appellant was not one of them. Ashley S. did not see appellant with a computer in his possession on the day of the burglary.

Krystal F. testified she was home with her brothers and sisters. Appellant was there with them. She never saw him with a computer.

Christina F. testified she was outside hanging out with S.B. Christina F. claimed appellant was inside her apartment with her sister Krystal F., but left later when his sister came to pick him up. After appellant had already left, she saw the two suspects running out of Marlene M.'s apartment. Christina F. did not recognize the two suspects. Christina F. explained she had picked up a door knob that had fallen from the front door when Laura B. saw her and the others outside her front door. Christina F. was friends with Marlene M. before being blamed by her for what had happened to her house.

DISCUSSION

In urging this court to reverse the "true" finding of the juvenile court, minor appellant emphasizes that the key testimony in this case stems from S.B., a minor, who allegedly told the investigating detective, Jose Larios, he had seen appellant carrying a computer near an apartment which had been burglarized. Minor appellant further emphasizes this same witness was also seen loitering around the front door of the burglarized apartment and had to be chased away from the location by the apartment's owner shortly after learning the apartment had been burglarized. Lastly, minor appellant contends that several witnesses observed appellant in a different location around the time of the burglary. Referring to the standard of review, minor appellant contends the evidence was thus insufficient, and not of solid, credible value to support a finding that minor appellant was responsible for the offense charged.

On April 14, 2011, the matter was adjudicated with extensive direct, cross and redirect examination afforded both sides of the controversy. The matter was submitted and arguments by both sides proceeded following submission. The matter was continued to 1:30 p.m. to allow the court to review the record and to permit further argument as needed. The court indicated it was then time for the court's decision. That decision is found in capsule form in the reporter's transcript as follows:

"The Court: Based upon the review of the testimony, particularly [S.B.]'s testimony by way of his prior inconsistent statement, being inconsistent with his in court testimony, the court does find that there was an entrance into Laura [B.]'s home and, therefore, the allegation in count – the September 30th, 2010, petition, the allegations are true beyond a reasonable doubt. The petition is sustained and the minor is a person described under section 602 of the Welfare and Institutions Code."

The respondent/People make the following argument in support of the finding of "true" on the charge of burglary brought against the minor: "Here, sufficient evidence supported the burglary allegation. Appellant merely attempts to reweigh the evidence by highlighting favorable evidence to his defense. . . . Appellant overlooks the standard of review. As he acknowledges, the main evidence here stemmed from [S.B.]'s statement to Detective Larios incriminating appellant as one of the suspects seen running out of Marlene's apartment with a computer in his hands. It was obvious that [S.B.] recanted much of what he said to the detective during trial. Nevertheless, his statements to the police were sufficient to support the burglary allegation. (See *People v. Young, supra*, 34 Cal.4th at p. 1181; see also *People v. Scott* (1978) 21 Cal.3d 284, 296.)

"Moreover, other evidence corroborated [S.B.]'s statement to the detective. Appellant was the last person to have possession of Marlene's house keys. Most of Marlene's jewelry was stolen. Marlene indicated appellant was over her house prior to the burglary and that she showed his girlfriend some jewelry. The trier-of-fact could reasonably infer from this that appellant feigned losing Marlene's keys and used them to

enter her house, and that the burglars knew Marlene and had some knowledge of where her jewelry was located.

“In sum, [S.B.]’s statements to the detective, as well as other circumstantial evidence, were sufficient to support the fact that appellant committed the burglary. Appellant’s attempt to reweigh the evidence is improper on appeal. (*People v. Ochoa*, *supra*, 6 Cal.4th at p. 1206; *People v. Jones*, *supra*, 51 Cal.3d at p. 314.)”

We find the argument of the People to be persuasive and that the minor appellant’s contention on appeal is merely an invitation to this court to reweigh the evidence. Were we to do so, we would be invading the province of the trial court, which would be improper on appeal. If substantial evidence supports the conviction, we must affirm. Substantial evidence supports the “true” finding of the juvenile court and we so hold.

DISPOSITION

The order is affirmed.

WOODS, J.

We concur:

PERLUSS, P. J.

ZELON, J.